

- (1) By or with the consent of the state department of public welfare;
  - (2) By a court order; or
  - (3) By a child-placing agency licensed by the state department of public welfare;
- may attend school in the school corporation in which the home or facility is located. If the school corporation in which the home or facility is located is not the school corporation in which the student has legal settlement, the county of the student's legal settlement shall pay the transfer tuition of the student.

The fact that petitioner is a juvenile being tried as an adult under the criminal code does not magically make him an adult for other purposes. His status under IC 20 is unaffected. Petitioner is under eighteen (18) years of age and is not emancipated. Even under IC 11, Corrections, he does not meet the definition of "adult" since he has not at this time been convicted of a crime. See IC 11-8-1-2 and 11-8-1-9. If petitioner is not an adult under the law, he is a child.

Petitioner is being held without bond by order of the court in a jail which is within the boundaries of South Newton School Corporation. There is no dispute among the parties that under the facts of this case, the Newton County Jail has been charged with the care, maintenance, and well-being of petitioner during the pendency of his trial and therefore is a "child care" facility for purposes of this statute. That a jail is not "licensed" as a child care facility is not an obstacle to petitioner receiving educational services under IC 20-8.1-6.1-5. The state does not required such licenses for jails, but obviously permits and accepts the practice of using jails to occasionally house juveniles. The State Board of Education has previously held that where no state license is required for a particular child caring facility and the state permits the facility to operate, that permission creates a *de facto* licensure that is sufficient to bring the students placed in the facility under section 5. New Horizons Maternity Home, SBOE, October 4, 1990, Cause No. 9005028.

For purposes of IC 20-8.1, "attend school" is broadly defined to include situations where a student cannot physically go to the school facility for his education but receives instruction from school corporation personnel. See IC 20-8.1-1-7.2. This is petitioner's situation since he cannot physically leave the Newton County Jail to go to school.

Petitioner is entitled to attend school (receive instruction) in South Newton School Corporation where the jail is located.

6. IC 20-<sup>8</sup>.1-6.1-5(a) establishes the party responsible for the cost of transfer tuition for a student placed under that section. The language provides that a student placed in a child care facility by court order is entitled to receive an education from the school corporation in which the facility is located. If the facility is located outside the student's corporation of legal settlement, then the student's county of legal settlement shall pay the transfer tuition of the student.